

AMENDED IN ASSEMBLY APRIL 20, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1615

Introduced by Assembly Member Klehs

February 22, 2005

~~An act to add Section 15627 to, and to repeal Part 10 (commencing with Section 15700) of Division 3 of Title 2 of, the Government Code, and to add Section 20.5 to the Revenue and Taxation Code, relating to governmental organization. An act to amend Section 53892 of the Government Code, relating to local government.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1615, as amended, Klehs. ~~Governmental reorganization: tax functions. Tax accounts: local governments.~~

Existing law requires local agencies to report to the Controller's office the aggregate amount of property taxes levied and assessed by the local agency.

This bill would require local agencies to report to the Controller's office any past due tax accounts, as specified.

By requiring additional reporting by local agencies to the Controller this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(1) Existing law provides for the establishment of the Franchise Tax Board and prescribes its various powers and duties regarding the administration of state personal income taxes and corporation franchise and income taxes. The State Board of Equalization collects and administers various taxes and fees imposed under specified programs and serves as an arbiter for the resolution of tax disputes involving the imposition of fees and taxes, including those taxes administered by the Franchise Tax Board.~~

~~This bill would abolish the Franchise Tax Board, and would provide for the transfer of its powers and duties to the State Board of Equalization, operative January 1, 2007.~~

~~(2) Existing law imposes, on employers in this state, unemployment insurance taxes that are administered by the Employment Development Department. Existing law also imposes taxes on insurance companies that are administered by the Department of Insurance.~~

~~This bill would also provide for the transfer of the tax administrative functions performed by the Employment Development Department and the Department of Insurance to the State Board of Equalization, operative January 1, 2007.~~

~~(3) This bill would require the State Board of Equalization to submit a report to the Governor and the Legislature, on or before June 30, 2006, regarding the board's assumption of the duties of the Franchise Tax Board and the assumption of the tax administration functions of the Employment Development Department and the Department of Insurance, as specified.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no-yes.~~

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 53892 of the Government Code is*
- 2 *amended to read:*
- 3 53892. The report shall state all of the following:
- 4 (a) The aggregate amount of taxes levied and assessed against
- 5 the taxable property in the local agency, which became due and
- 6 payable during the next preceding fiscal year.
- 7 (b) The aggregate amount of taxes levied and assessed against
- 8 this property collected by or for the local agency during the fiscal
- 9 year.

1 (c) (1) *All past due taxes levied, assessed, and receivable by*
2 *the local agency, in numerical or alphabetical account order, as*
3 *applicable. This shall include any information included on a*
4 *delinquent roll, as described in Section 2624 of the Revenue and*
5 *Taxation Code, a tax-defaulted property roll, as described in*
6 *Section 3442 of the Revenue and Taxation Code, and any other*
7 *taxes levied, assessed, and receivable by the local agency.*

8 (2) *The report shall indicate whether the account is one year*
9 *past due, three years past due, or five years past due or longer.*

10 (3) *For the purposes of this subdivision, "past due" means*
11 *any tax obligation that is unpaid on the due date for payment.*

12 (d) *The aggregate income during the preceding fiscal year, a*
13 *general statement of the sources of the income, and the amount*
14 *received from each source.*

15 ~~(d)~~

16 (e) *The total expenditures made by administrative departments*
17 *during the preceding fiscal year, a general statement of the*
18 *purposes of the expenditures, and the amounts expended by each*
19 *department.*

20 ~~(e)~~

21 (f) *The assessed valuation of all of the taxable property in the*
22 *local agency as set forth on the assessment roll of the local*
23 *agency equalized for the fiscal year, or, if the officers of the*
24 *county in which the city or district is situated have collected for*
25 *the city or district the general taxes levied by the city or district*
26 *for the fiscal year, the assessed valuation of all taxable property*
27 *in the city or district as set forth on the assessment rolls for the*
28 *county equalized for the fiscal year.*

29 ~~(f)~~

30 (g) *The information required by Section 53892.2, as of the end*
31 *of the fiscal year.*

32 ~~(g)~~

33 (h) *The approximate population at the close of the fiscal year*
34 *and the population as shown by the last regular federal census.*

35 ~~(h)~~

36 (i) *Other information that the Controller requires.*

37 ~~(i)~~

38 (j) *Any other matters necessary to complete and keep current*
39 *the statistical information on assessments, revenues and taxation,*

1 collected and compiled by any Senate or Assembly committee on
2 revenue and taxation.

3 ~~(j)~~

4 ~~(k)~~ In the case of cities, the information required by Section
5 53892.3.

6 ~~(k)~~

7 ~~(l)~~ In the case of community redevelopment agencies, the
8 information required by subdivisions (a), (b), and (g) of Section
9 33080.1 of the Health and Safety Code. The Controller shall
10 forward the information required pursuant to subdivision (c) of
11 Section 33080.1 of the Health and Safety Code to the Department
12 of Housing and Community Development for publication
13 pursuant to Section 33080.6 of that code.

14 *SEC. 2. If the Commission on State Mandates determines that*
15 *this act contains costs mandated by the state, reimbursement to*
16 *local agencies and school districts for those costs shall be made*
17 *pursuant to Part 7 (commencing with Section 17500) of Division*
18 *4 of Title 2 of the Government Code.*

19 ~~SECTION 1. Section 15627 is added to the Government~~
20 ~~Code, to read:~~

21 ~~15627. (a) (1) The board is the successor to, and is vested~~
22 ~~with, all of the duties, powers, purposes, responsibilities, and~~
23 ~~jurisdiction of the Franchise Tax Board. However, the statutes~~
24 ~~and laws under which the Franchise Tax Board existed and all~~
25 ~~laws prescribing the duties, powers, purposes, responsibilities,~~
26 ~~and jurisdiction of the Franchise Tax Board, together with all~~
27 ~~lawful rules and regulations established thereunder, are expressly~~
28 ~~continued in force.~~

29 ~~(2) Any action to which the Franchise Tax Board is a party on~~
30 ~~and before January 1, 2007, will not be abated by operation of~~
31 ~~law and shall continue in the name of the State Board of~~
32 ~~Equalization, which shall be substituted for the Franchise Tax~~
33 ~~Board by the court in which the action is pending. The~~
34 ~~substitution of parties will not affect the rights of the parties to~~
35 ~~the action.~~

36 ~~(3) "Franchise Tax Board" when used in any statute, law, rule,~~
37 ~~or regulation now in force, or that may hereafter be enacted or~~
38 ~~adopted, means the board.~~

39 ~~(b) (1) The board is the successor to, and is vested with, all of~~
40 ~~the duties, powers, purposes, responsibilities, and jurisdiction of~~

1 ~~the tax administration functions currently performed by the~~
2 ~~Employment Development Department and the Department of~~
3 ~~Insurance. However, the statutes and laws under which the~~
4 ~~administrative tax functions of the Employment Development~~
5 ~~Department and the Department of Insurance exist and all laws~~
6 ~~prescribing the duties, powers, purposes, responsibilities, and~~
7 ~~jurisdiction of the administrative tax functions performed by the~~
8 ~~Employment Development Department and the Department of~~
9 ~~Insurance, together with all lawful rules and regulations~~
10 ~~established thereunder, are expressly continued in force.~~

11 ~~(2) Any action regarding the administration of the tax~~
12 ~~functions of the Employment Development Department to which~~
13 ~~the Employment Development Department is a party on and~~
14 ~~before January 1, 2007, will not be abated by operation of law~~
15 ~~and shall continue in the name of the State Board of~~
16 ~~Equalization, which shall be substituted for the Employment~~
17 ~~Development Department by the court in which the action is~~
18 ~~pending. The substitution of parties will not affect the rights of~~
19 ~~the parties to the action.~~

20 ~~(3) Any action regarding the administration of the tax~~
21 ~~functions of the Department of Insurance to which the~~
22 ~~Department of Insurance is a party on and before January 1,~~
23 ~~2007, will not be abated by operation of law and shall continue in~~
24 ~~the name of the State Board of Equalization, which shall be~~
25 ~~substituted for the Department of Insurance by the court in which~~
26 ~~the action is pending. The substitution of parties will not affect~~
27 ~~the rights of the parties to the action.~~

28 ~~SEC. 2. Part 10 (commencing with Section 15700) of~~
29 ~~Division 3 of Title 2 of the Government Code is repealed.~~

30 ~~SEC. 3. Section 20.5 is added to the Revenue and Taxation~~
31 ~~Code, to read:~~

32 ~~20.5. Any reference hereafter in this code to the "Franchise~~
33 ~~Tax Board" shall be deemed a reference to the board.~~

34 ~~SEC. 4. (a) The executive officer of the State Board of~~
35 ~~Equalization, with the approval of the members of the board,~~
36 ~~shall organize its new responsibilities, formerly those of the~~
37 ~~Franchise Tax Board, in any manner as he or she deems~~
38 ~~necessary for the proper conduct of the board's consolidated~~
39 ~~revenue collection, administration, and enforcement functions.~~

~~(b) The executive officer of the State Board of Equalization, with the approval of the members of the board, shall organize its new tax administration responsibilities, formerly administered by the Employment Development Department, in any manner as he or she deems necessary for the proper conduct of the board's consolidated revenue collection, administration, and enforcement functions.~~

~~(c) The executive officer of the State Board of Equalization, with the approval of the members of the board, shall organize its new tax administration responsibilities, formerly administered by the Department of Insurance, in any manner as he or she deems necessary for the proper conduct of the board's consolidated revenue collection, administration, and enforcement functions.~~

~~SEC. 5. (a) The civil service staff of the Franchise Tax Board shall be transferred to the State Board of Equalization in accordance with the provisions of Section 19050.9 of the Government Code.~~

~~(b) Any civil service staff of the Employment Development Department that, as a result of this act is required to be transferred to the State Board of Equalization, shall be transferred in accordance with the provisions of Section 19050.9 of the Government Code.~~

~~(c) Any civil service staff of the Department of Insurance that, as a result of this act is required to be transferred to the State Board of Equalization, shall be transferred in accordance with the provisions of Section 19050.9 of the Government Code.~~

~~SEC. 6. (a) It is the intent of the Legislature in enacting this act to provide a governmental organization that will ensure centralized, effective, efficient, and impartial tax revenue collection, administration, and enforcement for the State of California.~~

~~(b) In order to effectuate this purpose, it is the intent of the Legislature to do the following:~~

~~(1) Consolidate the powers and duties of the Franchise Tax Board into the State Board of Equalization, and thereby streamline the functions previously performed by both of those agencies.~~

~~(2) Consolidate the powers and duties of with respect to the administrative tax functions of the Employment Development Department and the Department of Insurance into the State Board~~

1 of Equalization, and thereby streamline the functions previously
2 performed by all of those agencies with the functions performed
3 by the State Board of Equalization.

4 (e) It is the intent of the Legislature that this consolidation
5 shall be carried out in the least disruptive manner so as to ensure
6 that tax collections are not adversely affected.

7 (d) It is the intent of the Legislature that the consolidation
8 shall progress as expeditiously as is feasible and economical.

9 SEC. 7. On or before June 30, 2006, the State Board of
10 Equalization shall submit a report to the Governor and the
11 Legislature on the plan for, and the progress of, the board's
12 assumption of the duties of the Franchise Tax Board and the
13 board's assumption of the tax administration functions performed
14 by the Employment Development Department and the
15 Department of Insurance. The report shall include
16 recommendations for legislation that would be necessary to more
17 effectively achieve the efficiencies and purposes intended by this
18 act and shall include, but not be limited to, the following:

19 (a) (1) A strategic plan to facilitate the orderly assumption by
20 the board of all duties and responsibilities of the Franchise Tax
21 Board, including the identification of critical issues, including,
22 but not limited to, the consolidation of computer systems,
23 telecommunications, and office space.

24 (2) A strategic plan to facilitate the orderly assumption by the
25 board of all tax administration duties and responsibilities of the
26 Employment Development Department and the Department of
27 Insurance, including the identification of critical issues,
28 including, but not limited to, the consolidation of computer
29 systems, telecommunications, and office space.

30 (b) Identification of those functions performed by the
31 Franchise Tax Board and the tax administration functions
32 performed by the Employment Development Department and the
33 Department of Insurance that are readily conducive to
34 consolidation or centralization into the board, including, but not
35 limited to, administrative functions, document processing,
36 remittance cashing, public service, collection, and physical
37 equipment and facilities.

38 (c) Identification of administrative functions that, because of
39 statutory conflicts or inconsistent administrative processes of the

1 ~~Franchise Tax Board and the State Board of Equalization, cannot~~
2 ~~be readily consolidated into the board.~~

3 ~~(d) Identification of administrative functions that, because of~~
4 ~~statutory conflicts or inconsistent administrative processes of the~~
5 ~~Employment Development Department and the State Board of~~
6 ~~Equalization, cannot be readily consolidated into the board.~~

7 ~~(e) Identification of administrative functions that, because of~~
8 ~~statutory conflicts or inconsistent administrative processes of the~~
9 ~~Department of Insurance and the State Board of Equalization,~~
10 ~~cannot be readily consolidated into the board.~~

11 ~~SEC. 8. (a) No contract, lease, license, or any other~~
12 ~~agreement to which the State Board of Equalization or the~~
13 ~~Franchise Tax Board is a party shall be void or voidable by~~
14 ~~reason of this act, but shall continue in full force and effect, with~~
15 ~~the State Board of Equalization assuming all of the rights,~~
16 ~~obligations, and duties of the Franchise Tax Board. That~~
17 ~~assumption by the State Board of Equalization may not in any~~
18 ~~way affect the rights of the parties to the contract, lease, license,~~
19 ~~or agreement.~~

20 ~~(b) No contract, lease, license, or any other agreement to~~
21 ~~which the State Board of Equalization or the Employment~~
22 ~~Development Department is a party shall be void or voidable by~~
23 ~~reason of this act, but shall continue in full force and effect, with~~
24 ~~the State Board of Equalization assuming all of the rights,~~
25 ~~obligations, and duties of the Employment Development~~
26 ~~Department. That assumption by the State Board of Equalization~~
27 ~~may not in any way affect the rights of the parties to the contract,~~
28 ~~lease, license, or agreement.~~

29 ~~(c) No contract, lease, license, or any other agreement to~~
30 ~~which the State Board of Equalization or the Department of~~
31 ~~Insurance is a party shall be void or voidable by reason of this~~
32 ~~act, but shall continue in full force and effect, with the State~~
33 ~~Board of Equalization assuming all of the rights, obligations, and~~
34 ~~duties of the Department of Insurance. That assumption by the~~
35 ~~State Board of Equalization may not in any way affect the rights~~
36 ~~of the parties to the contract, lease, license, or agreement.~~

37 ~~SEC. 9. (a) On and after January 1, 2007, the unencumbered~~
38 ~~balance of all money available for expenditure by the Franchise~~
39 ~~Tax Board in carrying out any functions transferred to the State~~
40 ~~Board of Equalization by this act shall be made available for the~~

1 support and maintenance of the State Board of Equalization. All
2 books, documents, records, and property of the Franchise Tax
3 Board shall be transferred to the board.

4 (b) On and after January 1, 2007, the unencumbered balance
5 of all money available for expenditure by the Employment
6 Development Department in carrying out any functions
7 transferred to the State Board of Equalization by this act shall be
8 made available for the support and maintenance of the State
9 Board of Equalization. All books, documents, records, and
10 property of the Employment Development Department, relative
11 to the tax administrative functions of that department, shall be
12 transferred to the board.

13 (c) On and after January 1, 2007, the unencumbered balance of
14 all money available for expenditure by the Department of
15 Insurance in carrying out any functions transferred to the State
16 Board of Equalization by this act shall be made available for the
17 support and maintenance of the State Board of Equalization. All
18 books, documents, records, and property of the Department of
19 Insurance, relative to the tax administrative functions of that
20 department, shall be transferred to the board.

21 SEC. 10. Sections 1 to 5, inclusive, of this act shall become
22 operative on January 1, 2007.